Processing Voluminous Requests
A Best Practice for Institutions

A Joint Project of

The Office of the Information and Privacy Commissioner/Ontario

and

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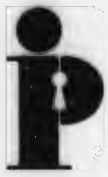
Ministry of Natural Resources



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Introduction

At times, requests submitted to institutions under the *Freedom of Information and Protection of Privacy Act* and the *Municipal Freedom of Information and Protection of Privacy Act* (the *Acts*) involve hundreds, sometimes thousands of records, or pages of records. Processing these requests is hard work!

The purpose of this *Best Practice* is to provide some strategies to assist institutions in processing voluminous requests, although some of these suggestions may be applied more broadly. Where sections of the *Acts* have been cited, the provincial section number will be listed first, followed by the municipal section number (e.g., section 27/20).

Handling voluminous requests requires a comprehensive understanding of all aspects of request processing, including the requirements for proper searches, fee estimates, interim notices, final decisions, time extensions and third party notification. This document is not intended to be a detailed procedural guide, but rather a supplement to existing requirements and resources. Additional reference material may be found in the *Information and Privacy Office Manual* published by Management Board Secretariat (MBS *Manual*), *The Freedom of Information Guideline*, other *IPC Practices* as well as IPC orders.[1]

While not all of the suggestions below can be applied in the context of every voluminous request, they provide a selection of strategies that may be of assistance in varying circumstances.

[1] The MBS *Manual* and the *Freedom of Information Guideline* are available at: www.gov.on.ca/MBS/english/fip. The IPC publications referred to in this document are available on the IPC Web site at: www.ipc.on.ca.

Initial Stages

The initial stages are critical to the successful processing of a voluminous request. The following suggestions may be of assistance in the initial stages.

Clarify the request.

A voluminous request can often involve broad subject areas, and may require clarification before it can be processed. Some effective approaches to request clarification may be found in *IPC Practices Number 15*.

In the case of a voluminous request which is unclear, it may be helpful to quickly obtain a general understanding of the types of records that may be responsive to the request. Identifying what is and is not available in response to the request, through program staff prior to seeking clarification from the requester can be most beneficial. It generally reduces the time needed for clarification by identifying at the outset what information is or is not available and allows the institution to suggest alternatives (e.g., the information may not be available in the format requested but may be available in another format). This step can be accomplished by reviewing record indexes, communicating with program areas and determining whether the records have been the subject of previous requests. Where clarification of a voluminous request is necessary, a general understanding of the categories of records will allow an institution to explore with the requester the types of records being sought.

Where appropriate, work with the requester to narrow the request.

Narrowing a request refers to working with the requester to reduce the scope of the request or the number of records involved. It is especially useful in situations where the voluminous request is very broad and the requester is generally unaware of the types of records the institution might have. It allows the institution to familiarize the requester with the organization, the role the institution would have played in the event around the records they are seeking, and what records the institution may or may not have. With this knowledge, the requester can then decide how to proceed.

Consider alternative ways of meeting the requester's needs.

An institution may wish to explore the possibility of finding other ways of meeting a requester's needs at the outset of a request that may yield voluminous records. For instance, does it appear that the requester has a specific interest that can be addressed in an alternate manner, such as meeting with a particular program area? Can the request be broken into segments and processed in order of importance to the requester? These approaches may benefit both parties by making the request more manageable or, in some cases, by eliminating the need for the request altogether.

Where a fee estimate is issued, it should be accompanied by an interim notice.

A fee estimate is usually issued before the completion of a voluminous request, particularly where general records form the subject of the request. That is because search fees usually comprise a large component of the fee estimate. (Please bear in mind that search fees cannot be charged where a requester is seeking access to his/her own personal information.) Where a fee estimate is issued, an institution may request a fifty percent deposit before proceeding with the request.

Where the institution provides a fee estimate of $100.00 or greater, the estimate should be accompanied by an interim notice.[2] An interim notice provides the requester with an indication of whether access is likely to be granted in whole or in part, and what exemptions are likely to apply to the records. This information assists the requester to determine whether he/she wishes to proceed with the entire request. While the fee estimate can be appealed, the interim notice is not an access decision under the *Act* and not subject to appeal. (Only a final access decision can be appealed.)

In these circumstances, a fee estimate/interim notice is arrived at by either:

- conducting a representative sampling of the records; or
- consulting with employees of the institution who are familiar with the type and content of the records.

List the categories of records that are responsive to the request.

While conducting a representative sampling or consulting with knowledgeable employees about the records, compile a description of the categories of records that are responsive to the request (e.g., correspondence, news clippings, briefing notes and studies). If possible, break records down into sub-categories. For example, correspondence may include correspondence between the requester and the institution, correspondence between institutions, etc.

Include the list of record categories as part of the fee estimate/interim notice. Providing the requester with a list of record categories at the onset may allow him/her to narrow the scope of the request by eliminating records that are of no interest.

The decision letter should invite a requester to review the categories of records and eliminate any that are of no interest. The more detailed and precise the categories are, the greater the likelihood the requester will take some of them off the table!

[2] The principles governing the issuance of a fee estimate/interim notice were introduced in IPC Order 81.

Ascertain whether a time extension is required.

Time extensions may be issued in accordance with sections 27/20 of the *Acts* where:

- the request is for a large number of records or necessitates a search through a large number of records **and** meeting the time limit would unreasonably interfere with the institution's operations; or
- consultations with a person outside the institution are necessary to comply with the request and cannot reasonably be completed within the time limit.

Time extensions must be issued before the 30th day of processing the request. An institution must issue a final decision by the end of the extended time period. Time extension decisions may be appealed to the IPC.

Contact the requester.

It is important for an institution to establish a rapport with the requester during the early stages of processing a voluminous request. Working together with the requester can often save time and effort, expedite request processing and may help avoid an unnecessary appeal. As noted above, immediate contact with the requester is required for request clarification and if early narrowing or alternative resolution is attempted. The following suggestions may be of additional assistance.

Provide advance notice of the fee estimate.

As fee estimates for voluminous requests are usually high due to search fees, it is recommended that an institution contact the requester prior to issuing the fee estimate/interim notice to let him/her know what to expect and why.

Work with the requester to see if the request can be narrowed or if there are alternative ways of addressing the requester's needs.

Although there is a 30-day period in which to appeal the fee estimate once it is issued, an institution should take advantage of this window and invite the requester to narrow the scope of the request. The list of record categories accompanying the fee estimate/interim notice may help a requester identify records that can be eliminated. The possibility of finding alternative ways of addressing the requester's needs can also be explored. Meeting directly with the requester while processing a voluminous request is often an effective strategy.

Allow the requester to address questions about the records directly with program areas.

Where the requester has questions about the records, it is recommended that the employee who is most knowledgeable about the records communicate directly with the requester. This may not only be beneficial when initially clarifying the request, but also after the fee estimate/interim notice has been issued.

Address possible time extensions.

Contact with the requester at this stage may also provide an opportunity to address a time extension if the institution intends to issue one. The institution and requester may be able to agree on an extended period for processing the request, thereby avoiding an appeal on this issue.

Explore staged processing.

Where an institution has issued a time extension, or intends to do so, processing the request in stages is often an effective strategy that can benefit the institution and the requester. The parties may be able to assess the requester's priorities and reach an agreement.

Retrieval of the Records

Even where a request yields voluminous records, the requester may still appeal on the basis that **additional** records exist. In addition to usual search procedures (i.e., reviewing record indexes and identifying specific files and databases that should be searched), the following tips may assist in conducting a comprehensive search for records at the outset so that an appeal of this nature can be avoided.

Make direct contact with institution employees.

Where record holdings of specified employees are being requested, contact should be made directly with those individuals to ensure that the search for records is complete.

The requester may seek a broad range of records relating to an activity, such as a meeting. Directly contact individuals who attended the meeting to establish whether all responsive records have been identified.

Read the records.

At times, references in the records themselves may reveal the existence of other records that are responsive to the request. Ensure all attachments referred to in the records are accounted for.

Identify electronic records.

In some cases, an institution will have to include the identification of electronic records in its search parameters. For instance, electronic records may be specified in a request or responsive to generally worded requests for "all records" relating to a particular matter.

Keep track of the search.

Keeping notes of the steps taken in the search for records may save time down the road, particularly in the event of an appeal on this issue. Creating a search/retrieval form to be completed by staff co-ordinating or conducting the search helps ensure the information required is recorded and readily available, in the event of an appeal.

The following search details are useful to note:

- who conducted the searches;
- locations searched, including types of files searched;
- amount of time spent;
- who was contacted in the course of the search;
- results of the searches; and
- details of record destruction if the records no longer exist.

The search/retrieval form can also provide the wording of the request, along with some general direction (e.g., the definition of a record and a summary of what does and does not qualify as search time). See Appendix B for a sample of the form used by the Ministry of Natural Resources.

If the records are being retrieved manually, ask the program area to make a duplicate copy at the same time they make a copy to provide to the Co-ordinator's (FIPPA) office. This will save time for FIPPA staff later in the process. If your FIPPA office processes records electronically, advise program areas to send you the originals for scanning. Whichever method of retrieval is used, stress the importance of receiving complete and organized records, including the identification of duplicate records.

Processing the Records

In addition to statutory requirements, the following strategies may assist in processing the request to completion in a systematic way, once the records have been identified and retrieved.

Create an index of records.

An index of records can benefit the institution, the requester and the IPC in the event of an appeal. An index assists in keeping track of all records and the decisions reached for each of them, and has proven to be a very effective appeal mediation tool. Where an index is created, it is recommended that it be provided to the requester along with the final access decision.[3]

Records may be indexed in a variety of ways. One option that has often been helpful in large requests is setting out records by category. For example, an institution may wish to designate briefing notes as Category A, with corresponding record numbers A-1, A-2, A-3; correspondence with other institutions as Category B, with records B-1, B-2, etc.

Indexing by chronological order may also be appropriate for a request, and has been found to be particularly helpful in identifying duplicates when organizing records from a number of different program areas.

Provide early access.

Where access is being granted to records, it is recommended that institutions not wait to provide access to them until the entire request is processed. Early disclosure of some records may assist the requester and allow the institution to focus on the remainder of the request. When doing this, it is important to keep a detailed account of the particular records released.

Provide clear notification to all affected persons.

Where an institution intends to grant access to records that affect another person's interests, it must provide notification under sections 28/21 of the *Acts*. Unless a time extension has been issued, notification of affected persons must occur within the first 30 days of request processing.

An institution intending to grant access must provide notification when: (a) it believes the record might contain a trade secret or commercial, technical, financial, scientific information affecting third party interests upon disclosure (sections 17/10 of the *Acts*), or (b) the record contains personal information that an institution believes might constitute an unjustified invasion of personal privacy if disclosed (sections 21/14 of the *Acts*).

[3] The IPC may require institutions to provide a detailed index during the course of an appeal. Refer to the IPC's *Code of Procedure*, section 10.02.

The following suggestions may assist in notifying an affected person.

Issue a clear notification letter.

The notification letter should explain the records at issue, whether an institution believes sections 17/10 or 21/14 of the *Acts* apply, and set out the affected person's onus, particularly in relation to commercial, technical, financial, scientific or trade secret information.

Sample notification letters with corresponding letters to requesters are provided in the MBS *Manual*. In addition, the IPC has published a supplement to assist with third party notification in *IPC Practices Number 5*.

Where possible, a package of records relating to each affected person should accompany the notification letter — it is the best way to obtain the person's views on disclosure.[4] Records which most readily lend themselves to this practice are those which have directly emanated from the affected person (i.e., the individual's own witness statement or a corporate entity's own documents). If you decide to send a record package that has not originated from the affected person, take care only to provide copies of the particular information relating to the affected person.

At a minimum, the notification letter should include a description or listing of the records relating to the affected person. Whichever method you use, be clear about your intended decision, especially as it relates to partial access. In the latter instance, it may also be appropriate for the institution to provide verbal elaboration or explanation of the information relating to the affected person so that an informed decision on disclosure can be made.

Use a consent form.

The use of a consent form may expedite the notification process as it simplifies the response procedures for an affected person. Sample consent forms for an affected person are provided in Appendix A of this document and can be customized.[5]

A consent form, in conjunction with a record package described above, may not only expedite the notification process, but may also encourage the affected person to at least consider partial access as an alternative to complete denial. For example, where the affected person consents to the disclosure of some information, a package of material provides the person with an opportunity to indicate directly on the records what information should be withheld, provide consent to partial disclosure to the records as indicated and return the records showing suggested severances, along with the consent form, to the institution for easy reference.

[4] Record packages may also expedite other consultation processes, for instance, where an institution wishes to obtain the views of institutions or governments under section 9 of the municipal *Act*.

[5] The sample consent forms have been adapted, with thanks, from the consent form used by the former Ministries of the Solicitor General and Correctional Services, now the Ministry of Public Safety and Security.

Monitor the notification.

Once a notification letter has been sent to an affected person, it is important to monitor the response because there are 30 days after notification in which to issue a decision. Some case management systems enable institutions to keep track of this process.

Keep in touch with the requester.

There may be additional opportunities during all stages of processing a voluminous request to eliminate records, address issues that arise and keep the requester apprised of the status of the request.

Be creative.

A creative approach to processing a voluminous request may benefit both the institution and the requester. Record descriptions, the provision of indexes, staged processing, face-to-face meetings with the requester and attempts to resolve issues are all effective ways of working through this type of request. In some circumstances, an institution has allowed a requester to review documents in person to determine what copies he/she really needs, avoiding unnecessary expense for both parties. IPC Order MO-1494 has clarified that this activity is an option **after** an institution has made a decision to grant access to records or parts of records.

Managing Voluminous Requests

The *Freedom of Information Guideline* offers some effective planning strategies to address the management of voluminous or difficult requests. Early identification of these types of requests is important, as it allows timely consideration of various factors including whether there is a need for additional resources or staff.

The following strategies may also be of assistance:

Share the workload.

One way to ease the pressure of processing a voluminous request is to temporarily assign an additional staff member(s) to help out. A team or "buddy" approach is highly recommended in this instance, and may be helpful at any stage of processing — in program areas or in the office of the Freedom of Information and Privacy Co-ordinator. Using short-term contract staff or external consultants with freedom of information expertise may also be a useful option in some circumstances. Whichever you choose, it is important to ensure continuity and consistency in processing. Even though other staff may assist, assign overall responsibility to one staff member at the outset. Avoid passing the file from one person to another.

Use a checklist.

A checklist, log or guide which sets out the steps involved in processing a voluminous request and target dates may be a useful tool for taking this request to completion. Checklists can be developed for the Co-ordinator's office as well as program area staff. By setting out a clear process, a checklist may assist with a prompt start and reduce the tendency to feel overwhelmed when a request is received. The checklist is also a good indicator of progress and can be of assistance in determining whether a reallocation of or additional resources is required.

Actively manage.

While each request file requires some degree of management and co-ordination, a voluminous request may require closer contact with program areas in order to prevent undue delays. The initial stages of the request process have the potential to break down if program area staff does not have sufficient expertise with fee estimate/interim notice preparation in this context. In addition, other issues such as technological "glitches" or consultations with other institutions have the potential to break down the request process.

It is therefore suggested that staff from the office of the Co-ordinator actively monitor and liaise with program areas to ensure that timelines are met and to provide any necessary guidance along the way. Where possible, it is suggested that the Co-ordinator's staff be prepared to assist on-site with tasks such as representative sampling. This type of assistance may expedite processing where, for instance, program area staff is inexperienced.

Develop expertise in program areas.

As a general rule, it is important to have designated contacts throughout the organization. These contacts, who have a good understanding of the *Act*, can act as a conduit between the Co-ordinator's office and ministry staff. As noted, it is particularly important that program area staff know how to deal with a voluminous request. A suggested practice is for program areas to pre-assign individuals who are responsible for processing or assisting with a voluminous request. These individuals should be trained in advance by the Co-ordinator's office on the requirements of processing a voluminous request (e.g., how to conduct representative sampling).

In conclusion, it is evident that a request yielding voluminous records is challenging to process. However, there is no need to panic! A measured, strategic approach will assist in effectively disposing of this type of file.

Appendix A — Notification to Affected Persons Consent Forms

The following consent forms illustrate the type of form that should accompany the notification letter to an affected person. The notification letter will provide background information and explain the statutory requirements. Where a consent form is used, you may wish to include an explanatory sentence in the cover letter, such as the one below:

> A consent form is enclosed for your convenience. Please complete it and return it to this office by [date].

Response from an affected person where personal information is contained in the records.

Consent Form

Please check the appropriate box below, sign this form and return it to this office by [date]. You may include any additional comments in the area indicated.

Request No. [1234]

To:
[Name/Address of Institution]
[Record description – optional]

☐ 1. I consent to the release of the personal information relating to me contained in the records as described [and/or provided] in your letter to me dated [insert date].

☐ 2. I consent to partial release of the personal information relating to me contained in the records. **Note:** If you choose this option, please describe the personal information you **do not** wish released, or [highlight this personal information in the copies of the records provided and return these copies along with this form].

☐ 3. I do not consent to the release of any personal information relating to me in the records.

Explanation/Comments (You may also write on the back of this form if additional space is required.)

Signature: _____

Print Name: _____

Address: _____

Telephone No.: _____

Date: _____

Please write any additional comments below.

Response where commercial information referred to in sections 10/17 of the *Acts* is contained in the records.

Consent Form

Please check the appropriate box below, sign this form and return it to this office by [date]. You may include any additional comments in the area indicated.

Request No. [1234]

To:
[Name/Address of Institution]
[Record description – optional]

☐ 1. I consent to the release of the information relating to [name of organization/company] contained in the records as described [and/or provided] in your letter to me dated [insert date].

☐ 2. I consent to partial release of the information relating to [name organization/company] contained in the records. **Note:** If you choose this option, please describe the information you **do not** wish released, or [highlight this information in the copies of the records provided and return these copies along with this form].

☐ 3. I do not consent to the release of any information relating to the [name organization/company] contained in the records.

Where option 2 or 3 has been chosen

Where option 2 or 3 has been chosen, please indicate how the information you wish withheld satisfies the three-part test set out [in the cover letter] or [below]. (You may also write on the back of this form if additional space is required.)

Signature of individual who has the authority to bind the organization/company: _____

Print Name and Position: _____

Address: _____

Telephone No.: _____

Date: _____

Please write any additional comments below.

Appendix B — Records Retrieval Forms

Records Retrieval Form

Part I — Completed Search

* Please re-read the text of the request to ensure you understand exactly what the applicant is requesting, then consider whether you have any records that would be responsive. If you are unsure whether to include a record or not, please contact the Information and Privacy Unit at [telephone number]. Please also read the following definitions:

Record A record is recorded information in any form, and includes correspondence, maps, plans, drawings, diagrams, reports, notebooks, forms, handwritten notes and memos as well as information captured on all other media such as films, videotapes, microfilm, photographs, sound recordings, computer files, e-mail, and optical disks.

Search Search time consists of every hour of manual search time required to locate and identify responsive records. This includes staff time involved in searching for the records, examining file indices, file plans or listings of records either on paper or in a computer, pulling paper files/specific paper records out of files, and/or reading through files to determine whether the records are responsive. Search time does not include time spent to copy the records, time spent going from office to office or off-site storage to look for the records or having someone review the results of the search.

Indicate what places were searched (e.g., what files in which offices or file rooms)

Name(s) of any staff contacted during the search

Methods/processes used to conduct the search and types of files searched (e.g., searching e-mail, other electronic files, paper files, file lists, off-site file lists, microfiche, etc.)

Number of hours required to do the search _____

Responsive records located ☐ Yes ☐ No

Indicate if responsive records no longer exist but did exist at one time (i.e., provide the number of the Records Retention Schedule which authorized the destruction of those records)

Are there any issues/sensitivities around these records or this request? ☐ Yes ☐ No
(if yes, please explain)

Reference #: _____

Name: _____

District/Region: _____

Position and Responsibilities: _____

Phone Number: _____

Date(s) of search: _____

Part II — Search Time Estimate

Complete this form if you have performed **more than 3 hours** of search time or the request requires a search through a large volume of records. Please keep detailed notes of the search — in the event of an appeal, you may be required to defend the extent of the search by providing a sworn affidavit or by giving testimonial evidence at a hearing.

* Please re-read the text of the request to ensure you understand exactly what the applicant is requesting, then consider whether you have any records which would be responsive. If you are unsure whether to include a record or not, please contact the Information and Privacy Unit at [telephone number].

Indicate what places were searched (e.g., what files in which offices or file rooms)

Name(s) of any staff contacted during the search

Methods/processes used to conduct the search and types of files searched (e.g., searching e-mail, other electronic files, paper files, file lists, off-site file lists, microfiche, etc.)

Estimate for more than 3 hours of search time

Number of hours required to do the search _____ (hours)

Number of pages of responsive records _____ (pages)

Estimated number of pages requiring partial or full severances
(e.g., 3rd party information, permits, licenses with personal information) _____ (pages)

Number of hours of computer programming
(if applicable) required to retrieve the responsive records _____ (hours)

Estimate for a large volume of records **(this will require you to search a representative sample)**

A representative sample should include a search of all types of records (e.g., paper and electronic files, special media), through at least half of a file drawer, storage box and/or computer file/ folder. An average one-inch paper file folder holds about 150–200 (single-sided) pages.

Number of hours to search the sample _____ (hours)

Number of pages of responsive records found in the sample _____ (pages)

Number of pages in the sample requiring partial or full severances
(e.g. 3rd party information, permits, licenses with personal information) _____ (pages)

Based on the representative sample, what is the estimated total search time and total number of pages for the entire responsive records package? _____ (hours) _____ (pages)

Reference #: _____

Name: _____

District/Region: _____

Position and Responsibilities: _____

Phone Number: _____

Date(s) of search: _____